



TOWN OF AMENIA

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ZONING BOARD OF APPEALS MEETING MONDAY, APRIL 20, 2015

PRESENT: Chair Leo Blackman
Terry Metcalfe
Paula Pelosi
Dave Menegat
Kevin Cassone
David Everett, Attorney
Julie Mangarillo, Engineer
George Janes, Visual Consultant

MOTION TO OPEN THE ZONING BOARD OF APPEALS MEETING AT 7:02 PM was made by Chair Blackman, seconded by Terry Metcalfe

VOTE TAKEN - MOTION CARRIED

SBA Cell Tower	Height Variance	67 Kent Road Wassaic, N.Y.
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Discussion of the proposed cell tower at 67 Kent Road. Ron Graiff, the RF Consultant was not able to make the meeting. Chair Blackman read the Resolution Designating the ZBA as SEQRA Lead Agency.

ROLL: Chair Blackman	Yes
Terry Metcalfe	Yes
Paula Pelosi	Yes
Dave Menegat	Yes
Kevin Cassone	Yes

Chair Blackman was told the biggest gap in service was the hamlet of Wassaic, yet the site of the cell tower is on the other side of the mountain. He felt that odd. The Board needs to look at what other alternative sites there are or existing buildings they could use like Pawling Rubber or the old Maxon Mills Site. Terry Metcalfe suggested the smoke stack at Taconic DDSO which would cover both Wassaic and the valley. Mr. Everett stated in their submission SBA had already addressed other sites. At the Planning Board meeting there were other sites that were raised as well. He continued the ZBA should discuss alternate sites, go to the RF consultant and have Mr. Graiff look at the sites and then have SBA respond.

George Janes stated that there were no coverage maps with this application. Those coverage maps would support why the site either works or doesn't work. Mr. Everett went on to say that MTA had proposed its own cell tower and SBA is in conversation with them to determine if there can be a co-location. SBA stated that MTA felt the current height the SBA tower would not work for them. SBA was going back to MTA to see what height would work for MTA.

Kevin Cassone spoke with Terence McCawley (MTA) today (April 20, 2015). MTA will be going with their own cell tower that they would own themselves; however, Verizon could use the MTA tower. MTA needs this tower for their police radio band. Chair Blackman asked if it was known what MTA coverage was needed. Kevin stated it was from Wassaic south. Mr. Everett stated it would depend if the tower will eliminate the gap in Verizon. SBA and the RF consultant will need to look at this. MTA does not have to comply with the Town's telecommunications law. The RF consultant may look at the MTA tower and see if that would fulfill Verizon's coverage gap. Kevin Cassone added that if the MTA tower was found suitable for Verizon then do we need two towers? Chair Blackman asked if we knew the height of the MTA tower. Kevin Cassone answered 150'.

Julie Mangarillo stated she had a concern about the site SBA had chosen. There will be a disturbance of more than 1 acre, therefore will need to do SWPP. Are they building a road parallel to the existing farm road? Leo Blackman understood they were using the existing road and extending it. Mr. Everett added they are moving it over because the farm road was wet and was moving it to a dryer area. Ms. Mangarillo stated it would be more work for SBA if they need to do storm water treatment.

Paula Pelosi asked what was a designated significant natural community? Chair Blackman stated it had to do with natural animal habitat- the applicant didn't have an answer for that question. Mr. Everett added the applicant needs to go to DEC Natural Heritage Program and get a letter from them regarding there were no known threatened or endangered species on the property or nearby. We also asked them to go to SHPO regarding no known Indian cultural resources; however these will also be dealt with in SEQRA. Mr. Blackman stated that the hamlet of South Amenia is National Register eligible, and the site should not be within 5 miles of such a cultural resource.

George Janes stated he had prepared two documents for the Planning Board which he sent to the ZBA. He felt the difference between 120' and 170' in terms of coverage is really small but that small area is in the hamlet of Wassaic. The rest of the document is an instruction sheet on how they can conduct a visual resource assessment and it pulls from DEC guidelines in terms of assessing impacts on visual resources. There is an inventory that the DEC recommends state parks, state forests, national wildlife areas, etc. The Comp Plan has a listing of scenic roads and a listing of historic resources without a map or addresses. Mr. Janes went to Dutchess County which has a listing of local historic resources. They do not meet the threshold of National

Historic Register but are still important. He sent this to the applicant. The ZBA Secretary told Mr. Janes that the applicant was put in touch with Dave Reagon who was working on a list with addresses. The balloon test will fly 4/24/15 (weather permitting) at 200' to accommodate the MTA; however it may change if the MTA is not interested. Dave Everett stated the reason why the balloon test now, is to see worst case before the trees leaf out. The balloon will be up for one day only and will start early. The public needs to rely on the photo simulations because then everyone will be able to review. SBA will not be taking photos from the 40-50 historic sites they were given. Mr. Janes felt that was ok, as you need a selection of reasonable worst case scenarios. The Board needs a manageable number of meaningful photo simulations. In his opinion, Mr. Janes stated that typically we like to see these uses clustered, for example a train yard with parking area and lighting stations makes a good place for a cell tower - existing visual clutter helps visually as camouflage. If SBA would co-locate with MTA on the MTA tower, that would be a good solution. Chairman Blackman asked if the ZBA directs where the photos are taken for the balloon test. Mr. Janes asked to make a view shed map, a map of the town which shows theoretically visibility to the town. On the view shed map you would map all the visual resources. The Town's Comp Plan is really detailed on what is important visually. Dave Everett asked if there was any way SBA could provide the view shed map to Mr. Janes before the balloon test so this could be gone over with them and Mr. Janes could give them direction. Mr. Janes had asked SBA to do that. State Multi Use areas are not a matter of state concern, but are a matter of local concern, so Mr. Everett felt Wassaic SMU should be added to the list. DeLavernne Hill is listed but was a bit far from the proposed site. The recommended radius was 2 miles.

Mr. Janes continued, there are many options for cell towers, the flagless flag pole or just the plain brown utility type pole with no panels on the outside, also on or within existing agricultural buildings like silos, smokestacks or water towers. This eliminates the visual clutter. The balloon test is just the beginning.

Chair Blackman wanted to know if there was a topographic map showing the cell phone tower. Mr. Janes stated it should be in the application along with the coverage maps. Mr. Blackman felt that if you overlay the topo map with the coverage map then one would understand what physical problems were creating the service gaps. Mr. Everett stated that could be requested.

Kevin Cassone asked why the ZBA can't ask the RF Consultant what the coverage will be from the MTA tower. If the MTA tower will give the coverage Verizon needs why do we need another tower? Chair Blackman said we would ask the applicant. Mr. Janes stated you would ask the applicant to produce the propagation maps for a tower in this location at this height.

Public Comments:

Jesse Janowitz lives at Oblong Ridge Farm, the closest land owner and about 167' to the base of the proposed tower. The property is used for recreational purposes; horse boarding business,

riding trails and hunting (deer, rabbits, turkey or fox hunting with dogs). The property is in a Land Conservancy. She thanked the Board for all the hard work they are putting into this application. Her question to the Board is regarding supporting evidence provided in the application with respect to existing wireless structures and existing communications where a cell tower could be located. After reading the law it did not look like the evidence was there. She asked why the existing towers could not be better fitted to address this coverage gap? She felt that other locations should be considered.

Janet and Dave Offensend – Barlow Farm at 101 Kent Road next to the Yale Farm. Their farm is located a little further from the proposed tower but the tower is right there. They do have a historic structure on the property, the 1793 House of Captain Barlow and across the street is the very old (17th Century) house Mr. Yale owns. They are most grateful for the work the Board is doing and feels the ZBA are asking the right questions.

George Janes stated when doing field work, the balloon usually goes up at daybreak. Then the crew does a field survey – driving around to assess actual field visibility based on the view shed map - and takes photos. Mr. Janes will request that they leave the balloon up until 5 p.m.

Mr. Everett stated for the next meeting the Board needed a preliminary report from the RF consultant. Julie Mangrillo stated her main concern was how to address the area of disturbance, the storm water and the DEC regulations that go along with the site they have chosen. Mr. Janes will need to attend if SBA has provided a view shed map and he has provided his comments.

George Lithco introduced himself to the Board representing the Janowitz's. They have hired an RF Consultant to look at the application. He is having difficulty with the copy provided of the coverage map as it is in black and white, so requested a pdf be sent.

MAPLEBROOK SCHOOL

Recommendations P.B. Major Project-Pool

**5142 Route 22
Amenia, NY**

Chair Blackman stated the Planning Board has reviewed the site plan and the Board looked over the plans. Brian Watts, M. A. Day Engineering represented Maplebrook School. Mr. Everett addressed the Board stating that this was allowed under the Town Code with a special permit. Because it is a major project under the law, a referral and recommendation to the ZBA is required. Chair Blackman was concerned with the amount of site disturbance and wondered if that location was the only option. Mr. Watts stated originally they were going to use foundation walls; the majority of the disturbance is a result of the construction for the grading around the edge of the building. He continued the site disturbance is around 22000 square feet. For maintenance (draining of pool), they proposed a dry well. Julie Mangarillo she didn't feel that there was any problem with the dry well. There are no nearby wells. It is partially in the Stream Corridor Overlay. She continued from a sediment control and erosion they are building where it is flat area. Because they will have to grade at the top of the slope they will need to be careful of the erosion and sediment control to make sure they do not have bare soil falling down the slope. She went on to say the Planning Board has already addressed this.

The only issue left Ms. Mangarillo stated was the parking and how to come up with the required number of parking spaces. They are proposing to remove 7 maintenance parking spots. Maplebrook have said these are extra spaces and can afford to lose them without replacing them elsewhere. There are about 44 full time employees during the day and 22 part time employees during the evening-night.

Chair Blackman asked if there was going to be a public swim? Mr. Kenneth Hale stated yes.

MOTION TO SEND THE PLANNING BOARD A LETTER STATING THAT THE ZBA FEELS IT IS A POSITIVE PROJECT FOR THE COMMUNITY AND FEEL IT IS VERY IMPORTANT THAT BECAUSE OF THE STEEP SLOPES AND REGRADING, THE SILT AND EROSION BE ADDRESSED was made by Chair Blackman, seconded by Dave Menegat

VOTE TAKEN – MOTION CARRIED

Bulfamante Landscaping

Use Variance-Compost

3501 Route 22

Dover Plains, N.Y.

Chair Blackman began stating the last time Mr. Bulfamante was before the Board they tried to establish a timeline of when the property was purchased and what was done on the property. The new Zoning Code was 2007 and Mr. Bulfamante purchased the property in 2009. At that time he cleared the trees and chopped them up to make mulch and compost which he then sold. Mr. Bulfamante stated it was between 45,000-50,000 yards and was sold to Fordham University. Mr. Blackman noted that at the last meeting, Mr. Bulfamante stated that there was a continuing landscaping and composting use prior to the purchase of the property. Mr. Bulfamante continued it was an active nursery and the first thing we did was to bring the land back to be farmable, so cleared it, made compost and mulch and then planted several thousand trees. There was a huge problem for two to three winters with the deer. The soil has a heavy gravel content. Commercially it was not worth the effort, so he ceased operations.

Chair Blackman asked what volume would be produced by a new facility? Mr. Bulfamante answered 80,000 to 100,000 yards. Mr. Bulfamante explained under DEC up to 3,000 yards needs no permit/registration; up to 10,000 yards is a registration and above 10,000 yards is a DEC permit. DEC had asked where the yard waste would come from and was told Westchester County. DEC suggested he apply for a permit as the county produces 180,000 to 200,000 yards of plant per year(not all of which would come to Mr. Bulfamante's facility). DEC came down and inspected the property to see if it met their guidelines and he claimed they are OK with it. Mr. Blackman asked if he had a letter from DEC? Mr. Bulfamante explained that a new DEC worker had taken over his inquiry today, and he promised to be in touch soon. Bulfamante would like to get in 2000-3000 yards as initial inventory. If the project goes further he will need to buy very expensive and large equipment. He has visited numerous compost sites in the Northeast and Texas. Any waste that comes to his property would allegedly be manifested by DEC. Once the facility is operational DEC is very involved. They would also have a certified scale on site.

Chair Blackman noted that the Code something of this scale would be considered a solid waste facility. If so, the process would need to be done in a building and money set aside for inspections. But a solid waste facility is not allowed in Amenia. Mr. Everett stated it makes exception for the municipality. He continued legally it is a struggle on how this could be permitted. The Code is clear that solid waste management facilities as defined by DEC are prohibited anywhere in the Town. He continued the ZBA could grant a use variance, which Mr. Bulfamante has applied for. But a use variance is governed by four very strict standards. The first standard is to prove that for every other use that is allowed in the Zoning District he can't make any money (using financial evidence). Since all uses are permitted in the OC District, that seems near impossible.

Mr. Everett noted another option is agriculture use, as composting is allowed (but only if it is related to Ag products that are made or used on the property). Obviously, bringing in yard waste from Westchester is unrelated to the site. A third option is the continuation of a non-conforming use. There was a nursery prior but it is unclear whether they were composting. If so, the Code for non-conforming use would require it to have been of the same size as he is proposing now. The Lopane Nursery did not have that kind of operation. Mr. Everett went back to three old Zoning Code books and could find nothing that was designated as a "nursery clause". Under an old Code (which is not included in the new Code) there was a forest nursery, but it does not say anything about composting. Non-conforming must also be continuous and have not ceased operation for more than one year. So the ZBA is out of options to justify a variance. The best approach now for Mr. Bulfamante is to go to the Town Board and request a zoning change. It will be up to the applicant to make their case to the Town Board about why this use is good for the Town (environmentally and financially). Then the Town Board will make a determination.

Paula Pelosi felt solid waste management facility sounds like sewage. Mr. Everett stated there is a very detailed definition of solid waste management facility in the DEC regulations. It includes lots of specifics. There is a separate chapter that deals just with yard waste. Kevin Cassone asked Mr. Bulfamante if he would be just turning yard waste into compost and does he add any chemicals? Mr. Bulfamante stated it was completely natural.

It was brought up that on the site of the old transfer station they are making "sweet peat" (also a composted product). It was also noted that this use had never been approved by the Town.

Ms. Pelosi felt that Mr. Bulfamante should request a Zoning Change from the Town Board. Mr. Bulfamante agreed. He claimed when the property was purchased 2008-2009, under nursery exemptions and clauses, one could accept material and process it for future sale, but not in any large capacity. DEC is now pushing for composting sites. His application is in with DEC and he is just waiting to see if the town will permit this. Dave Menegat asked if there was any money in this for DEC? Mr. Bulfamante stated they get a minimal supervising fee. Terry Metcalfe noted that Mr. Bulfamante's only recourse is to go to the Town Board for a Zoning Code change. From the audience, Ms. Perotti stated Mr. Bulfamante would be welcome to make a presentation to the Town Board, about changing the zoning code to allow composting. Mr. Everett added it would be a text amendment to the code which must be consistent with the Comprehensive Plan. Gretchen Hitselberger suggested the ZBA make a statement to the Board as to whether they feel it was a positive or negative thing for the town, or specifically state they had no comment at this time. Statements from the neighbors stating that smells based on wind shift, or noise pollution

from trucks wouldn't be a problem would be helpful. Her final point is the financial one, the applicant should explain what benefit his business will bring to the town.

Tom Werner asked if there was a trailer on the property? Mr. Bulfamante stated it was a home with a full basement from Sherwood Homes. Mr. Werner then asked if there was a letter stating DEC approved the composting. Mr. Blackman felt that would be important to bring to the Town Board. Mr. Werner felt there were burial grounds on Mr. Bulfamante's property, who stated there were none. He continued the house that is there now will house two workers and in the future become an office for the facility. He hope to start a bagging operation which could sustain 8-12 jobs in a new local business. We will welcome any yard waste that Amenia can bring at no charge. It would be ground down and he's provide the Town with the end product. Chair Blackman suggested they bring to the Town Board also a site plan as to how the property will be used. Mr. Bulfamante said Peter Moon will be designing the facility. He is from Washington state so wants the project to be a little further along with approvals before he begins site design. He has designed 17 facilities in the state of New York and has just finished one in Kingston. Mr. Bulfamante said the property had been reviewed by DEC and does not fall in the 100 year flood plain or the aquifer overlay. Mr. Blackman said if this becomes a permitted use, it will need site plan approval from the Planning Board.

Terry Metcalfe felt Mr. Everett's statement that "since a compost facility is prohibited under the present Zoning Code, Mr. Bulfamante needs to go to the Town Board to seek a text amendment to the Zoning Code in order to proceed" deserved a vote.

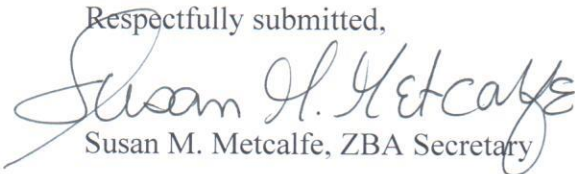
MOTION TO ACCEPT THE ABOVE STATEMENT TO THE TOWN BOARD was made by Chair Blackman, seconded by Dave Menegat

VOTE TAKEN - MOTION CARRIED

MOTION TO CLOSE THE ZONING BOARD OF APPEALS MEETING was made by Leo Blackman, seconded by Terry Metcalfe and Kevin Cassone

VOTE TAKEN – MOTION CARRIED

Respectfully submitted,



Susan M. Metcalfe, ZBA Secretary

The foregoing are minutes taken from a meeting of the Zoning Board of Appeals held on April 20, 2015 and are not to be construed as the official minutes until approved.

X Approved as read 6/15/15

_____ Approved with: additions, corrections and deletions